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Message:

Application No.	:	09/990,802 Confirmation No. 3720
Applicant	:	Eitan FARCHI
Filed	:	November 13, 2001
Title	:	METHOD AND APPARATUS FOR COLLECTING PERSISTENT COVERAGE DATA ACROSS SOFTWARE VERSIONS
TC/A.U.	:	2124
Examiner	:	Jason D. MITCHELL

PAPER ENTITLED: Reply Brief　　　　　　　　　4 pages

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PATENT   Attorney Docket No.: SVL920010003US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application No.   :   09/990,802   Confirmation No. 3720

Applicant   :   Eitan FARCHI

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Title   :   METHOD AND APPARATUS FOR COLLECTING PERSISTENT
                       COVERAGE DATA ACROSS SOFTWARE VERSIONS

TC/A.U.   :   2124

Examiner   :   Jason D. MITCHELL

REPLY BRIEF

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

Appellants provide the following remarks in response to the Examiner's Answer dated

February 14, 2006, focusing on the following point, relative to Appellants' definition of the term

"persistent" in their specification.

A distinction which Appellants have tried to make throughout prosecution is that the

invention enables more efficient running of tests on changed code, avoiding the need to run

complete test suites on code that is unchanged between versions. In the present application,

Appellants call code that is unchanged between versions "persistent". Thus, looking for example

at page 5 of the present application, Appellants have defined "persistent code coverage data" as

"a previously collected code coverage data for the non-affected parts of the program, which is

preserved for the modified version of the program eliminating the need for running the entire test

bucket (i.e. test case collection)."

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PATENT APPLICATION

Application No. 09/990,802
Appellants' Reply Brief dated April 14, 2006
Examiner's Answer mail date: February 14, 2006

The independent claims of the present application all recite, both in the preamble and in

the body of the claim (so that the preamble breathes life into the claim), persistent code coverage

data. The preservation of this code coverage data, which is something that neither Chen, nor

Winder, nor Reinhardt, alone or in combination, teaches or even remotely suggests, makes the

running of test cases more efficient.

Appellants submit that the Examiner has misconstrued the meaning of "persistent," and

has paid little or no heed to Appellants' own definition. Specifically, Appellants can point to the

following.

1)   Ex. Ans., p. 17 – "If the data gathered for an old version did not persist at least

until the new version had been written it would be impossible to compare the two." This

definition does not meet the definition which the Examiner quoted immediately before, which is

that the code coverage tasks persist <u>across software versions</u>. Data existing until a new version is

written definitely does not persist across software versions. Therefore, the part of Chen on

which the Examiner relies here cannot have anything to do with this aspect of the invention.

2)   Ex. Ans., pp. 17-18 – "The names could not be compared if they did not persist

across versions". This ties in to the recitation of a "persistent unique name" in the claims of the

present application. If a name is changed from one version to another, it will not, cannot persist

across versions. Therefore, once again the definition the Examiner has posited does not meet

Appellants' definition of persistence <u>across software versions</u>. A name that exists until a new

name is given definitely does not persist across software versions. Therefore, once again the part

of Chen on which the Examiner relies here cannot have anything to do with this aspect of the

invention, either.

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Application No. 09/990,802   **PATENT APPLICATION**
Appellants' Reply Brief dated April 14, 2006
Examiner's Answer mail date: February 14, 2006

3)   Ex. Ans., p. 19, compared with Ex. Ans., p. 4: The Examiner's reading of the

claimed "code coverage tasks" on Chen is inconsistent. On p. 4 of the Answer, the Examiner

refers to function trace lists 161 and 163 as containing "sufficient data to determine which

'entities' or 'code coverage tasks' have been executed". However, on p. 19 of the Answer, the

Examiner refers to the function trace lists themselves as the code coverage tasks. In view of the

inconsistency of the reading, Appellants stand by their previous position, which is that the

claimed "code coverage tasks," as defined in the specification, in no way correspond to anything

in Chen. In particular, as Appellants explained in their Appeal Brief, the "broadening" language

they use to define "other alternative ways" to define "code coverage tasks" does not encompass

Chen's entities.

4)   Ex. Ans., pp. 21-22 – Appellants continue to disagree with the Examiner's

application of the highly non-specific references in Winder to the claimed invention. Appellants

submit that the Examiner is employing improper hindsight reconstruction, using the teachings of

the present application to reach a conclusion of obviousness.

5)   Finally, Appellants note that the "whereby" clauses of claims 6, 13, and 20 recite

more specifically the effect of the invention claimed in the corresponding independent claims:

"whereby the previously collected code coverage data for the non-affected code coverage tasks is

preserved from a previous version of the program to the modified version of said program

eliminating the need for running the entire test bucket" – namely, the preservation of previously

collected code coverage data for non-affected code coverage tasks, so that the entire test bucket

need not be run.

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Application No. 09/990,802
Appellants' Reply Brief dated April 14, 2006
Examiner's Answer mail date: February 14, 2006

Atty. Docket No. SVL920010003US1
PATENT APPLICATION

In view of the foregoing, Appellants respectfully submit that all of the claims in the

present application are patentable, and maintain the arguments they submitted in their Appeal

Brief. Accordingly, Appellants respectfully request that the Examiner's rejections be reversed,

and the application passed to allowance at the earliest opportunity.

Respectfully submitted,
KENYON & KENYON LLP

Dated: April 14, 2006

By: *Viola Cillian* *Reg. No. 43,535* *for:*

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